

BOARD OF PAROLE HEARINGS
Executive Board Meeting
November 23 & 24, 2015

Meeting Called to Order at 1:05 p.m.

Roll Call: Commissioners Anderson, Garner, Labahn, Minor, Montes, Peck, Roberts, Singh, Turner and Zarrinam present. Commissioners Fritz and Richardson absent.

Commissioner ANDERSON confirmed that a majority of currently-appointed commissioners is present.

CONSENT CALENDAR

Commissioner SINGH moved to approve the consent calendar and was seconded by Commissioner ROBERTS. The motion carried unanimously.

REPORTS AND PRESENTATIONS

Report from Executive Officer, Jennifer Shaffer.

SHAFFER stated that the latest Three-Judge Panel report is posted on the CDCR website. There have been no significant changes since the last report. She reported that all institutions, apart from San Quentin, have been visited in connection with the board's outreach program.

San Quentin will be visited next week. The program has been a success and there has been a lot of helpful feedback. SHAFFER thanked the institutions for their hospitality.

Report from Chief Counsel, Howard Moseley.

MOSELEY gave a briefing on the proposed settlement agreement reached in Johnson v. Shaffer, now subject to approval from the federal court overseeing the case. Notification to the class members of the terms of the proposed settlement agreement will be accomplished by posting the settlement terms in all institutional law libraries. After the notification period has concluded, a fairness hearing will be conducted at which time the proposed settlement terms will be considered by the court. Those terms include modifying the timing for new comprehensive risk assessments from five years to three years, elimination of subsequent risk assessments and development of regulations to address pre-hearing objections.

MOSELEY also gave a briefing on Senate Bill (SB) 230, which will not become effective until January 1, 2016. Pursuant to SB 230, inmates who receive a grant of parole and have served their minimum eligible parole date shall be immediately released, subject to decision review by the Board and review by the Governor, regardless of the term set by the Board pursuant to its regulations (often referred to as term calculations). In response to a question from Commissioner ZARRINAM, MOSELEY stated that SB 230 does not expressly impact determinate terms sentenced consecutively pursuant to In re Thompson decision.

SHAFFER clarified that inmates will be released at the earliest of their minimum eligible parole date, youth offender parole eligibility date, or elder parole eligibility date.

MOSELEY summarized the draft directive on ex parte communication and invited feedback. He stated that it will likely be presented for the board's consideration at the next executive meeting.

BOARD OF PAROLE HEARINGS

Executive Board Meeting

November 23 & 24, 2015

Report from Chief Deputy of Program Operations, Sandra Maciel.

MACIEL stated that electronic file sharing program (using Watchdox) has been extended to mentally disordered offender hearings.

CHRISTINE BUFFLEBEN, Chief of Executive Analysis Unit, gave a PowerPoint presentation on the updates to the Board's Information Technology System that were rolled out on November 21, 2015. Enhancements have been made to the Proceedings and View Transcripts tabs. Other enhancements include Transcript Tracking, Risk Assessments, Case Records, Hold Orders and Term Calculations.

Report from Chief Psychologist, Dr. Cliff Kusaj Ph. D.

KUSAJ stated that 249 assessments are scheduled in December, 2015. Psychologists hired in June, 2015 are now able to conduct assessments. KUSAJ recognized the hardship caused by late assessments and stated that the Forensic Assessment Division is working to distribute assessments 60 days before a hearing. Progress is being made and more psychologists will be hired in the coming months.

Report from Chief Administrator, Offender Investigation and Screening Division, Elizabeth Allen.

ALLEN introduced members of OISD. She stated that the board's sexually violent predator screening process is being developed and will soon be part of BITS.

DISCUSSION ITEMS

Revised Administrative Directive 2012-01, Criteria for Certified Law Students to Serve as Counsel at Parole Consideration Hearings.

MOSELEY described the proposed revisions to the directive. The changes enable certified law students to serve at the board's hearings as counsel for district attorneys' offices. MOSELEY emphasized that the students must be supervised by an attorney present at the hearing and must be certified by the State Bar.

Commissioner GARNER moved to adopt the revised directive. Commissioner MONTES seconded the motion, which carried unanimously.

Administrative Directive 2015-03, Evidentiary Questions at Parole Consideration Hearings.

Senior Staff Attorney, VERONICA MENDOZA summarized the proposed directive.

Public Comments

VANESSA NELSON-SLOANE, Life Support Alliance, questioned whether the proposed directive permits uncharged allegations to be raised at a hearing. It is also unclear whether a prosecutor renders legal advice to the panel by recommending a parole denial and suggesting the length of that denial. NELSON-SLOANE was uncertain if a panel may consider information, documents or photographs submitted at the hearing.

BOARD OF PAROLE HEARINGS
Executive Board Meeting
November 23 & 24, 2015

MOSELEY responded that panels must consider all relevant, reliable information. The presiding officer may require participants to focus their comments on such information. The submission of documents at a hearing is addressed by another board directive. Prosecutors are entitled to express their opinion about an inmate's suitability for parole and about the length of a denial. If panels need legal advice, they should contact the legal division.

Commissioner SINGH moved to adopt proposed Administrative Directive 2015-03 and was seconded by Commissioner TURNER. The motion carried unanimously.

PRESENTATIONS

Update on Senate Bills 261 and 519, presented by Executive Officer, Jennifer Shaffer.

SHAFFER provided a written summary of the changes enacted by SB 261 and SB 519, which will impact the board beginning in 2016. The CDCR Case Records Division is currently screening the eligibility of over 9,700 inmates. It is estimated that there are over 1,500 determinately-sentenced youth offenders who will be eligible for a hearing by the end of 2021. The board is not required to schedule a hearing for them until 2021, however, they must be scheduled for a consultation by the end of 2017. Indeterminately-sentenced youth offenders must be scheduled for their initial hearing by January 1, 2018. The schedule of hearings will be posted on the board's website for the first six months of 2016.

The board is hiring psychologists to meet the increased need for risk assessments and anticipates being at full complement by July, 2016. Qualified youth offenders under SB 261 who are already scheduled for a hearing during January through June of 2016 and who were already slated to receive a new comprehensive risk assessment will receive a youth offender risk assessment. Qualified youth offenders under SB 261 who are already scheduled for a hearing January through June of 2016 and whose last comprehensive risk assessment is less than five years old will not receive a youth offender risk assessment at this time. Rather, if they are denied parole, they will be eligible for another hearing by the end of 2017, as required by statute. They will receive a youth offender risk assessment in preparation for that hearing.

SHAFFER stated that the board will, until December 31, 2015, grant all requests for waivers from potential youth offenders based on the passage of SB 26. After December 31, 2015, waivers on this basis will need to be submitted at least 45 days before the hearing. For the purpose of petitions to advance a hearing date and the board's administrative review process, qualification as a youth offender pursuant to SB 261, is change in circumstances. However, petitions to advance hearing dates and administrative reviews to advance hearing dates will continue to be approved only if the change in circumstances establishes a reasonable likelihood that the inmate does not require further incarceration, as required by Marsy's Law.

OPEN COMMENTS

VANESSA NELSON-SLOANE, Life Support Alliance, stated that en banc referrals provide insufficient information about the reasons for the referral. She expressed concern that some inmates do not receive notification of the referral and requested that the board provide timely notification.

BOARD OF PAROLE HEARINGS
Executive Board Meeting
November 23 & 24, 2015

KEITH WATTLEY, Uncommon Law, stated that the implementation of SB 260 caused confusion and many inmates received inadequate notification of their youth offender hearing. He hoped that inmates, eligible for a youth offender hearing under SB 261, will receive sufficient notice.

JILL KLINGE, Alameda County District Attorney's Office, requested information about the number of SB 261 inmates, who will be scheduled for a hearing between January and June, 2016. She recommended that the draft directive regarding ex-parte communication not be interpreted to restrict reasonable communication.

Meeting recessed at 2:25 p.m. until Tuesday, November 24, 2015 at 9:00 a.m.

November 24, 2015

Meeting called to order at 9:04 a.m.

Roll Call: Commissioners Anderson, Garner, Labahn, Minor, Montes, Peck, Roberts, Singh, Turner and Zarrinam present. Commissioners Fritz and Richardson absent.

Presentation on the Data-Driven Approach to Victim Services by Heather Warnken, Fellow, Office of Justice Programs, U.S Department of Justice.

WARNKEN gave a PowerPoint presentation and provided a handout.

EN BANC REFERRALS

Referral pursuant to Penal Code section 1170(e) to determine eligibility for recommendation to sentencing court for recall of sentence.

A. MONTOYA, ALFRED P-24487

No speakers.

B. WANLESS, MICHAEL F-83469

PATTI RIDEOUT, inmate's sister, and BARBARA WANLESS, inmate's mother, supported a recommendation for recall of sentence.

BOARD OF PAROLE HEARINGS
Executive Board Meeting
November 23 & 24, 2015

Referral by the Chief Counsel pursuant to California Code of Regulations, title 15, section 2042, to assure complete, accurate, consistent and uniform decisions and the furtherance of public safety.

C. MARTIN, DANIEL C-70256

ROBIN GILMORE read a letter from DAVID SLOANE, inmate's friend, supporting his grant of parole. VANESSA NELSON-SLOANE, inmate's friend, supported the parole grant.

BRIAN FITZPATRICK, Orange County District Attorney's Office, recommended ordering a rescission hearing.

D. ZEPEDA, DAVID AR-7091

RICHARD SACHS, San Diego County District Attorney's Office, recommended ordering a rehearing.

Referral by the Governor pursuant to Penal Code section 3041.1 and California Code of Regulations, title 15, section 2044 to request review of a parole decision by the full Board.

E. DAVIS, MICHAEL H-08904

SABINA CROCETTE, inmate's attorney, supported his parole grant. LORI GIVENS, inmate's friend, supported his release and read a support letter from the director of Pops the Club Inc. The inmate's fiancée, JAIMIE HARRIS, and his friend, SONDRAL HALL, also supported his release.

RICHARD SACHS, San Diego County District Attorney's Office, recommended ordering a rescission hearing.

BOARD OF PAROLE HEARINGS
Executive Board Meeting
November 23 & 24, 2015

F. FLORES, LAWRENCE F-37037

ALEXIS DE LA GARZA, Los Angeles County District Attorney's Office, recommended ordering a rescission hearing.

G. HERNANDEZ, RUBEN H-62709

No speakers.

H. NGUYEN, THI K-61171

ALEXIS DE LA GARZA, Los Angeles County District Attorney's Office, recommended ordering a rescission hearing.

I. RICHARDS, MERRIL C-66928

ALEXIS DE LA GARZA, Los Angeles County District Attorney's Office, recommended ordering a rescission hearing.

J. YBARRA, JOAQUIN B-71314

SAMANTHA SCHROEDER, Fresno County District Attorney's Office, recommended ordering a rescission hearing.

OPEN COMMENT

CHRISTINE WARD, Crime Victims Action Alliance, read a letter from TRUDY LUNDY, the victim in the case of GEORGE WENZEL T-15770, who was granted parole in March, 2015. The victim's contact information was not updated and she did not receive notice of the hearing. She expressed concern about his release.

VANESSA NELSON-SLOANE, Life Support Alliance, stated that many inmates have been confused by the implementation of SB 261. The elimination of term calculations has been the subject of discussion and some inmates do not understand the purpose of consultations. NELSON-SLOANE regretted that the Forensic Assessment Division training is not open to the public. She questioned the consequences of a panel member's failure to disclose an ex-parte communication.

Meeting adjourned at 11:40 a.m.

Board of Parole Hearings
Scheduled and Backlog Hearings Report
Penal Code section 3041(d)
December, 2015

